



Cost Allowability

Lawrence Berkeley
National Laboratory

Financial Policies and Procedures

Part I

Title:	Cost Allowability
Originally issued:	September 1, 2005
Effective date:	March 20, 2006
Revision number:	3
Scheduled review date:	January 22, 2008 (every year)
Primary contact:	Controller

Summary

The purpose of this policy is to provide general guidelines for the Laboratory in determining allowable costs, in compliance with DOE Contract 31, the Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR). This policy is not intended to amend or replace any Federal, State, or regulatory requirements. For more specific details, refer to DOE Contract 31, the FAR and the DEAR.

Policy

Overview

The Laboratory, as part of the University of California, is accountable to the Department of Energy (DOE) for the appropriate expenditure of DOE funds. It is the policy of the Laboratory not to incur unallowable costs in performance of work under DOE Contract 31.

Allowable costs are costs and expenses actually incurred in the performance of work in accordance with the terms of DOE Contract 31, or authorized work for other agreements, which are considered necessary, or incident thereto, and are determined to be allowable, as defined in FAR, Subpart 31.201-2, *Determining Allowability* ([FAR 31.201-2](#)), as supplemented by specific clauses in DOE Contract 31 DEAR Subpart 970.31, *Contract Cost Principles and Procedures* ([DEAR 970.31](#)).

Requirements

A cost is allowable only when it complies with all of the following requirements:

- Reasonableness
- Allocability
- Applicable Cost Accounting Standards (CAS); otherwise, Generally Accepted Accounting Principles (GAAP) and practices appropriate to the circumstances
- Terms and conditions of DOE Contract 31
- Any rules or limitations described in FAR, Subpart 31.201-2 as supplemented by DEAR Subpart 970.31 and specific clauses in DOE Contract 31.

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Reasonableness

A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person while conducting normal Laboratory business. The determination of reasonableness depends upon a variety of considerations and circumstances, including the following:

- The type of cost is generally recognized as ordinary and necessary to conduct Laboratory business or contract performance.
- The cost is in compliance with generally accepted sound business practices, arm's length bargaining, Federal and State laws and regulations.
- The cost supports the Laboratory's responsibilities to the Government, other customers, the owners of the business, employees, and the public at large.
- The cost does not significantly deviate from established practices.

Allocability

A cost is allocable if it is assigned or charged to one or more cost objectives (*projects*) on the basis of benefits received (or other equitable relationship) and charged or allocated consistently and in compliance with applicable Cost Accounting Standards (CAS) and the Laboratory's CAS Disclosure Statement. Therefore, a cost is allocable if it:

- Is incurred specifically for the project
- Benefits both the project and other work, and can be distributed in reasonable proportion to the benefits received
- Is necessary to the overall operation of Laboratory business

Roles and Responsibilities

Supporting Documentation

Individuals with signature authority for specific costs incurred are responsible to ensure they are allowable under DOE Contract 31 and Laboratory policies, and that supporting documentation is adequate.

Each Division is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, to demonstrate that costs claimed have been incurred per DOE Contract 31 requirements. DOE may disallow all or part of a claimed cost that is inadequately supported.

Allowability Determinations

Refer questions about allowability to the Financial Policy and Training Office, who will make allowability determinations based upon the appropriate directive or regulation, and/or in consultation with the appropriate authority.

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Examples of Unallowable Costs (per FAR 31.205 and DEAR 970.3102-05)

Public Relations and Advertising Costs (FAR 31.205-1)

Examples of *unallowable* public relations and advertising costs include the following:

- Costs of sponsoring meetings, conventions, symposia, seminars, and other special events when the principal purpose of the event is other than dissemination of technical information or stimulation of production.
- Costs of ceremonies such as celebrations and new product announcements.
- Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media that are designed to call favorable attention to the Laboratory and its activities.
- Costs of souvenirs, models, imprinted clothing, buttons, and other mementos provided to customers or the public.
- Costs of memberships in civic and community organizations.
- Costs of memorabilia (e.g., models, gifts, and souvenirs).
- Costs of alcoholic beverages, entertainment, and physical facilities that are primarily used for entertainment.

Bad Debts (FAR 31.205-3)

Bad debts, including actual or estimated losses arising from uncollectible accounts receivable due from customers and other claims, and any directly associated costs (such as collection and legal costs) are *unallowable*.

Contributions or Donations (FAR 31.205-8)

Contributions or donations, including cash, property and services, regardless of the recipient, are *unallowable*, with the exception of the costs of participation in community service activities (e.g., blood bank drives, charity drives, savings bond drives, disaster assistance, etc.), as provided in FAR 31-205-1(e)(3).

Employee Morale (FAR 31.205-13) and DOE Contract 31 Appendix A

Costs of gifts are *unallowable*. (Gifts **do not** include awards for performance made in accordance with FAR 31.205-6(f), or awards made in recognition of employee achievements in accordance with an established Laboratory plan or policy.)

Costs of recreation are *unallowable*, **except** for the costs of employees' participation in Laboratory-sponsored sports teams or employee organizations designed to improve loyalty, teamwork, or physical fitness. However, DOE Contract 31 does place an annual

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monetary limit on all employee morale enhancing activities. Such expenditures must be pre-approved by the Employee Activities Association Coordinator in accordance with RPM 1.14.

Entertainment Costs (FAR 31.205-14)

Costs of amusement, diversions, social activities, and any directly associated costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are *unallowable*.

Costs of membership in social, dining, or country clubs or other organizations having the same purposes are also *unallowable*, regardless of whether the cost is reported as taxable income to the employees.

Fines, Penalties, and Mischarging Costs (FAR 31.205-15)

Costs of fines and penalties resulting from violations of, or failure of the Laboratory to comply with, Federal, State, local, or foreign laws and regulations, are *unallowable*, **except** when incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer (DOE).

Costs incurred in connection with, or related to, the mischarging of costs are *unallowable* when the costs are caused by, or result from, alteration or destruction of records, or other false or improper charging or recording of costs. Such costs include those incurred to measure (or otherwise determine) the magnitude of the improper charging, and costs incurred to remedy or correct the mischarging, such as costs to rescreen and reconstruct records.

Independent Research and Development and Bid and Proposal Costs (FAR 31.205-18 and DEAR 970.3102-05-18)

Independent research and development and bid and proposal costs are *unallowable*. However, DOE-approved Laboratory Directed Research and Development costs and those costs incurred in support of DOE's various reimbursable (work for others) programs are *allowable*.

Insurance (FAR 31.205-19)

If purchased insurance is available, any self-insurance charge plus insurance administration expenses in excess of the cost of comparable purchased insurance is *unallowable*.

Self-insurance charges for risks of catastrophic losses are *unallowable*.

Actual losses are *unallowable*, unless expressly provided for in the contract. The following types of losses are **allowable**:

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- Losses incurred under the nominal deductible provisions of purchased insurance, in keeping with sound business practice.
- Minor losses, such as spoilage, breakage, and disappearance of small hand tools that occur in the ordinary course of business and that are not covered by insurance.

Lobbying and Political Activity Costs (FAR 31.205-22 and DEAR 970.3102-05-22)

Costs associated with the following activities are *unallowable*:

- Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activities.
- Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.
- Any attempt to influence
 - The introduction of Federal, State, or local legislation, or
 - The enactment or modification of any pending Federal, State, or local legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation.

Losses on Other Contracts (FAR 31.205-23)

- An excess of costs over income under any other contract (including the Laboratory's contributed portion under cost-sharing contracts) is unallowable.

Plant Reconversion Costs (FAR 31.205-31)

Reconversion costs are *unallowable* except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be *allowed* to the extent agreed upon before costs are incurred.

Professional and Consultant Service Costs (FAR 31.205-33)

Costs of professional and consultant services performed under any of the following circumstances are *unallowable*:

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- Services to improperly obtain, distribute, or use information or data protected by law or regulation.
- Services that are intended to improperly influence the contents of solicitations, the evaluation of proposals or quotations, or the selection of sources for contract award, whether award is by the Government, or by a prime contractor or subcontractor.
- Any other services obtained, performed, or otherwise resulting in violation of any statute or regulation prohibiting improper business practices or conflicts of interest.
- Services performed which are not consistent with the purpose and scope of the services contracted for or otherwise agreed to.

Recruitment Costs (FAR 31.205-34 and DOE Contract 31, Appendix A, Section XII)

Help-wanted advertising costs are *unallowable* if the advertising:

- Does not describe specific positions or classes of positions.
- Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the Laboratory's products or capabilities.
- The Laboratory may incur costs for the recruitment of personnel, as follows:
 - (1) Costs of advertising and agency and consultant fees shall not exceed \$1,000,000 annually without prior Contracting Officer (DOE) approval.
 - (2) Travel and subsistence for interviewee, interviewer, and recruiting contact paid in accordance with DOE Contract 31 Appendix A. As approved by the Laboratory Director, expenses for round-trip travel and subsistence for the interviewee's spouse may be reimbursed. Meal expense for interviewer's spouse may be reimbursed.
 - (3) New or prospective employees who have been offered and have accepted a position, and who are required to take a pre-placement physical examination, shall be reimbursed for costs of the physical examination.
 - (4) Costs associated with pre-employment screening shall be allowable.

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- (5) For the purpose of house-hunting, and with the approval of the cognizant division leader or division/program director, as appropriate, the Laboratory Director may authorize the expenses for round-trip travel and subsistence for both the selected new hire and the new hire's spouse. A maximum stay of six days including five nights to be charged against the maximum 30 day housing allowance may be permitted. Travel and subsistence costs shall be reimbursed for the applicant and spouse in accordance with Section I (b) of DOE Contract 31 Appendix A.
- (6) New employees, or transferees, shall be reimbursed for costs of travel and shipment of household goods in accordance with this Section I (b) relocation service provider may be used to assist with the transition.

Relocation Costs (FAR 31.205-35)

The following types of costs are *unallowable*:

- Loss on sale of a home.
- Costs incident to acquiring a home in the new location as follows:
 - Real estate brokers' fees and commissions.
 - Costs of litigation.
 - Real and personal property insurance against damage or loss of property.
 - Mortgage life insurance.
 - Owner's title policy insurance when such insurance was not previously carried by the employee on the old residence. (However, the cost of a mortgage title policy is allowable.)
 - Property taxes and operating or maintenance costs.
- Continuing mortgage principal payments on a residence being sold.
- Costs incident to furnishing equity or nonequity loans to employees or making arrangements with lenders for employees to obtain lower-than-market rate mortgage loans.

If relocation costs for an employee have been allowed and the employee resigns within 12 months for reasons within the employee's control, the laboratory shall refund or credit the relocation costs to the Government.

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Taxes (FAR 31.205-41)

The following types of costs are *unallowable*:

- Federal income taxes.
- Taxes in connection with financing, refinancing, refunding operations, or reorganizations.
- Taxes from which exemptions are available directly, or available based on an exemption afforded the Government, except when the contracting officer determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government.
- When partial exemption from a tax is attributable, taxes charged in excess of that amount resulting from application of the preferential treatment are unallowable.
- Special assessments on land that represent capital improvements.
- Taxes (including excises) on real or personal property, or on the value, use, possession or sale thereof, which is not used in connection with Government work.
- Any excise tax in subtitle D, chapter 43 of the Internal Revenue Code of 1986, as amended (which includes excise taxes imposed in connection with qualified pension plans, welfare plans, deferred compensation plans, or other similar types of plans).

Trade, Business, Technical and Professional Activity Costs (FAR 31.205-43)

The following types of costs are **allowable**:

- **Memberships** in trade, business, technical, and professional organizations.
- Subscriptions to trade, business, professional, or other technical periodicals.
- When the principal purpose of a meeting, convention, conference, symposium, or seminar is the dissemination of trade, business, technical or professional information or the stimulation of production or improved productivity -
 - Costs of organizing, setting up, and sponsoring the meetings, conventions, symposia, etc., including rental of meeting facilities, transportation, subsistence, and incidental costs
 - Costs of attendance by contractor employees, including travel costs (see [FAR 31.205-46](#)); and

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- Costs of attendance by individuals who are not employees of the contractor, provided
 - Such costs are not also reimbursed to the individual by the employing company or organization, and
 - The individual's attendance is essential to achieve the purpose of the conference, meeting, convention, symposium, etc.

Research and Development Costs (FAR 31.205-48)

When research and development costs are incurred in excess of either the amount sponsored by grant for research and development effort or ceiling required in the performance of a contract, the excess is *unallowable* under any other Government contract or grant.

Costs of Alcoholic Beverages (FAR 31.205-51)

Costs of alcoholic beverages are *unallowable*.

Authority

- DOE Contract 31
- Cost Accounting Standards (CAS)
- Department of Energy Acquisition Regulation (DEAR) Part 970
- Federal Acquisition Regulation (FAR) Subpart 31.2

Contacts

- Manager, Financial Policy and Training

Glossary

Allocate: To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of a cost and the reassignment of a share from an indirect cost pool.

Arm's-length bargaining: The parties involved are dealing from equal bargaining positions, neither party is subject to the other's control or dominant influence, and the transaction is treated with fairness, integrity and legality.

Cost objective: A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.

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Department of Energy Acquisition Regulation (DEAR): This document establishes uniform acquisition policies which implement and supplement the Federal Acquisition Regulation (FAR). It is not, by itself, a complete document and must be used in conjunction with the FAR and DOE Contract 31.

Expressly unallowable cost: A particular item or type of cost which, under the express provisions of an applicable law, regulation, or contract, is specifically named and stated to be unallowable.

Federal Acquisition Regulation (FAR): The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds.

Final cost objective: A cost objective which has allocated or assigned to it both direct and indirect costs and is one of the final cost accumulation points. Examples of final cost objectives are grants and contracts.